

Legislator University

An Overview of Florida's
Judicial Branch

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Organization of Florida Courts



- The Florida court system is comprised of the Supreme Court, five district courts of appeal, 20 circuit courts and 67 county courts.
- Formed in 1972, the Office of the State Courts Administrators is the administrative arm of the Florida Supreme Court.

Trial Courts – County – Organization and Jurisdiction

- The Constitution establishes a county court in each of Florida's 67 counties.
- The number of judges in each county court varies with the population and caseload of the county and is set in statute.
- County judges serve six-year terms and are eligible for assignment to circuit court where the county is located.
- Trial jurisdiction of county courts is established by statute, and extends to civil disputes involving \$30,000 or less.

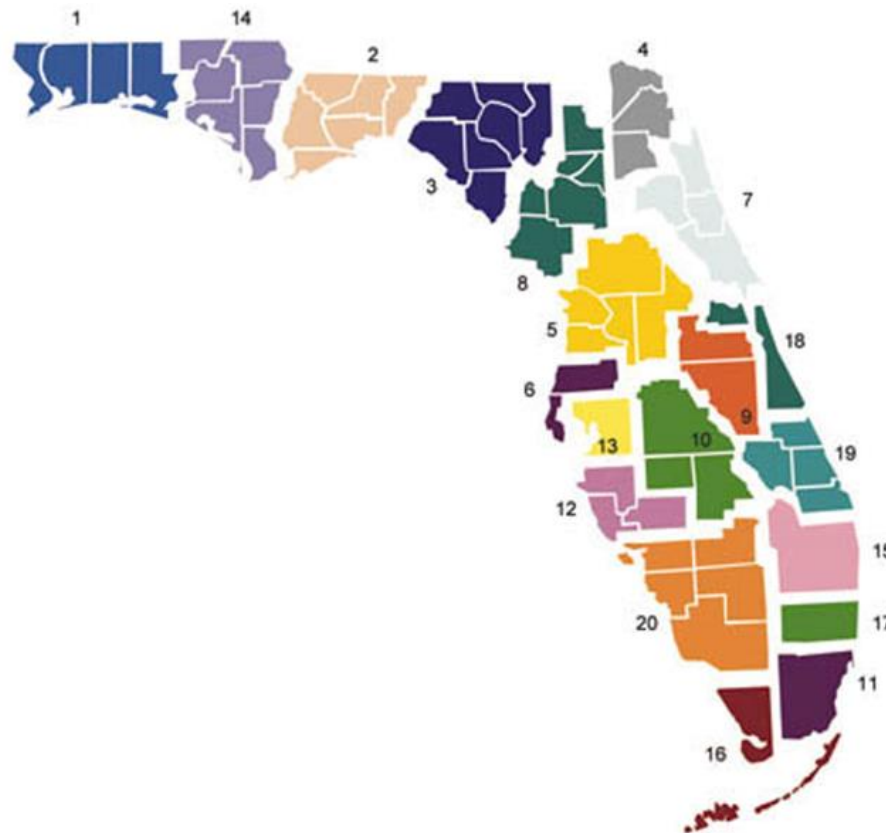




Trial Courts – Circuit – Organization

There are 20 judicial circuits in the Florida court system.

The number of judges in each circuit varies with the population and caseload of the county and is set in statute.



Some circuits are made up of multiple counties.



Trial Courts – Circuit – Jurisdiction

Circuit courts have general trial jurisdiction over matters not assigned by statute to the county courts.

- **Jurisdiction includes:**

- Original jurisdiction over civil disputes involving more than \$30,000;
 - Controversies involving the estates of decedents, minors, and persons adjudicated as incapacitated;
 - Cases involving juveniles;
 - Criminal prosecutions for all felonies;
 - Tax disputes; and
 - Requests for injunctions to prevent unlawful actions.
- Circuit courts may also issue extraordinary writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus, and other writs necessary to exercise jurisdiction.



District Courts of Appeal – Organization and Jurisdiction

There are five District Courts of Appeal (DCAs), located respectively in Tallahassee, Lakeland (Tampa branch), Miami, West Palm Beach and Daytona Beach. The number of judges in each district is set in statute.

- In general, DCA decisions represent the final appellate review of litigated cases.
- DCAs may hear appeals from final judgments and review certain non-final orders (e.g. venue, personal jurisdiction, class certification).
- By general law, DCAs review final actions taken by state agencies in carrying out the duties of the executive branch.
- DCAs have constitutional authority to issue extraordinary writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus, and other writs necessary to exercise jurisdiction.

District Courts of Appeal





Florida Supreme Court – Organization and Jurisdiction

- Composed of seven Justices; at least five Justices must participate in every case and at least four must agree for a decision to be reached.
- Jurisdiction is set out in the Constitution; there is some flexibility by which the Legislature may alter jurisdiction.

Mandatory Jurisdiction:

The Court **MUST** review:

- final orders imposing death sentences
- district court decisions declaring a statute or provision of the state constitution invalid
- bond validations
- certain orders of the Public Service Commission on utility rates and services

Discretionary Jurisdiction:

If discretionary review is sought by a party, the Court, at its discretion, **MAY** review district court decision that:

- expressly declares valid a statute
- construes a provision of the state or federal constitution
- affects a class of constitutional or state officers
- directly conflicts with a decision of another district court or of the Supreme Court on the same question of law
- certified as great public importance
- certified direct conflict
- certified judgment of trial courts
- certified question from federal courts



Office of the State Courts Administrator

On July 1, 1972, the Office of the State Courts Administrator (OSCA) was created to oversee court initiatives and administrative functions.

- The State Courts Administrator serves under the direction of the Chief Justice of the Florida Supreme Court.
- Additionally, the State Courts Administrator serves as the liaison between the court system and the legislative branch, the executive branch, the auxiliary agencies of the Court, and national court research and planning agencies.
- OSCA's legislative and communication functions are handled directly by the State Courts Administrator and her executive staff.



Office of State Courts Administrator – Functions and Duties

- OSCA functions include budgetary, intergovernmental, fiscal, statistical, technological, educational, and legal responsibilities relating to the operations of the state courts.
- OSCA provides professional and administrative support to councils, commissions, committees, and work groups appointed by the Court.

Qualifications for Judicial Office



- To be eligible for judicial office, a person must:
 - Be a Florida elector.
 - Live in the court's territorial jurisdiction.
 - Be less than 75 years of age.
- To be eligible for the office of:
 - **Supreme Court justice** or **DCA judge**, a person must also be, and have been for the preceding **10** years, a Florida Bar member.
 - **Circuit or county court judge**, a person must also be, and have been for the preceding **five** years, a Florida Bar member. However, unless general law provides otherwise, there is no minimum Florida Bar membership requirement for county court judge in a county with a population of 40,000 or less.

Judicial Election, Appointment, and Retention

- County and circuit court judges are elected for six-year terms. However, the voters may approve a local option to select circuit or county judges by merit selection.
- DCA judges and Supreme Court justices are appointed by the governor and face a merit retention vote during the next general election after their first year of appointment, and every six years thereafter.
 - In a retention election, voters are asked to answer “yes” or “no” on whether the justice or judge should be retained for another term, and retention requires a majority vote in the affirmative. If a justice or judge is not retained, the office becomes vacant and the governor appoints a new justice or judge.





Judicial Nominating Commission ("JNC")

A vacancy in judicial office may occur due to resignation, removal, retirement, death, elevation of a sitting judge, or a newly-created judicial office.

The governor appoints a person to fill such vacancy from a list of JNC-nominated candidates.

- JNCs nominate at least three but no more than six persons for each vacant judicial office. Nominees are selected from a list of applicants investigated and interviewed by the JNCs.
- JNCs adopt procedural rules for each court system level, but the legislature may repeal such rules by general law.



Judicial Nominating Commissions – Organization and Membership

- There are 27 JNCs, as follows:
 - **One for the Supreme Court;**
 - **One for each of the five DCAs;**
 - **One for each of the 20 judicial circuits and the county courts within; and**
 - **One Statewide Commission for Judges of Compensation Claims.**
- A JNC has nine governor-appointed members from the JNC's territorial jurisdiction, including at least six Florida Bar members, four of whom were nominated by the Florida Bar Board of Governors. JNC members serve four-year terms except when appointment is made to fill a vacant, unexpired term.
- A judge may not serve on a JNC, and JNC members are ineligible for any state judicial office for which the JNC makes nominations during their terms and for two years thereafter. However, a JNC member may hold non-judicial public office.

Judicial Qualifications Commission (JQC)

- The JQC investigates and recommends to the Florida Supreme Court the removal from office of any justice or judge unfit to hold office, and the discipline of a justice or judge whose conduct warrants it.
- The JQC is divided into:
 - An investigative panel, which investigates complaints and submits formal charges against a justice or judge; and
 - A hearing panel, which receives and hears the formal charges.
- JQC proceedings are confidential until the investigative panel submits formal charges to the hearing panel.
- The JQC may issue subpoenas and access information from executive, legislative, and judicial agencies.





Judicial Qualifications Commission – Organization and Membership

- The JQC has 15 governor-appointed members serving staggered terms of no more than six years.
- JQC members, except judges, are ineligible for state judicial office while serving on the JQC and for two years thereafter, and may not hold office in a political party or participate in a judicial campaign, except that a judge may campaign for judicial office.
- The JQC adopts specified rules, including procedural rules, but the legislature may repeal such rules by general law. The Supreme Court may also repeal such rules by a concurrence of five justices.



Impeachment

- Pursuant to Article III, Section 17 of the Florida Constitution, justices of the Supreme Court and DCA, circuit and county court judges “shall be liable to impeachment for misdemeanor in office.”
- The House of Representatives has the power to impeach by a 2/3 vote and the Speaker may appoint a committee to investigate charges against any officer subject to impeachment.
- An impeachment by the House must be tried by the Senate. The Chief Justice of the Supreme Court presides over such a trial; the Governor would preside over a trial of the Chief Justice.
- Conviction takes a 2/3 vote of the Senators present. Upon conviction, a judge or justice is removed from office and in the discretion of the Senate, may be disqualified to “hold any office of honor, trust or profit.”

Number of Judges and Drawing of Judicial Boundaries



The Constitution Requires:

- The legislature to divide the state into appellate court districts and judicial circuits, along county lines.
- At least one judge per county court and at least three judges per DCA, but sets no minimum number of judges per circuit court.
- Seven Supreme Court justices.
- The Supreme Court to establish by rule uniform criteria for determining the need for increasing or decreasing the number of judges, except Supreme Court justices, and for increasing, decreasing, or redefining appellate districts and judicial circuits.



Number of Judges and Drawing of Judicial Boundaries

- If the Supreme Court finds a need to increase or decrease the number of judges or redefine appellate districts or judicial circuits, it must certify its recommendations to the legislature before the next regular legislative session.
- Then, the legislature considers the Court's recommendations and may:
 - Reject or implement the recommendations in whole or in part.
 - Create additional judicial offices or decrease the number of judicial offices by a greater number than the Court recommended with a two-thirds vote.

If the Court fails to certify its recommendations, the legislature may ask the Court to certify its findings and recommendations.

After nine months of no response from the Court, the legislature may, upon a vote by **two-thirds** of the members of each house, increase or decrease the number of judges, except Supreme Court justices; or increase, decrease, or redefine appellate districts and judicial circuits.



Administrative Law Judges (ALJs)

- An administrative law judge (ALJ) is a statutory judge serving within the executive branch.
 - This is in contrast to an "Article V judge," who is a member of the judicial branch and whose office is created by the Florida Constitution.
- ALJs conduct administrative hearings under chapter 120 of the Florida Statutes, otherwise known as the Administrative Procedure Act. These hearings often involve challenges to executive agency action.
- Typically, a case comes before an ALJ when an executive agency refers a case to DOAH.
 - The ALJ makes findings of fact and conclusions of law.
 - The agency may then accept or reject the ALJ's findings and conclusions.



Administrative Law Judges – Appointment & Qualifications

- The Administration Commission (composed of the Governor and the Cabinet) appoints the director of the Division of Administrative Hearings (DOAH), subject to Senate approval. In turn, the director appoints each ALJ.
- To be eligible for appointment as an ALJ, a person must have been a member in good standing with the Florida Bar for the preceding 5 years.



State Attorneys

- To be eligible to serve as the state attorney, a person must:
 - Be a Florida elector.
 - Reside in the judicial circuit's territorial jurisdiction.
 - Be a member of The Florida Bar for five years.
- One state attorney is elected to serve each judicial circuit for a term of four years.
- The state attorney is empowered to appoint assistant state attorneys (or "prosecutors"), who have all the powers and duties of the appointing state attorney.



State Attorneys

- The state attorney is the prosecuting officer of all trial courts in the judicial circuit, and performs other duties including:
 - Prosecuting specified county or municipal ordinance violations punishable by jail;
 - Preparing and signing charging documents and other official documents;
 - Examining witnesses and giving legal advice in grand jury matters;
 - Summoning and examining state witnesses;
 - Assisting the Attorney General in appeals to the Supreme Court; and
 - Representing the state in habeas corpus cases.



Public Defenders

- To be eligible to serve as public defender, a person must:
 - Be a Florida elector.
 - Reside in the judicial circuit's territorial jurisdiction.
 - Be a member of The Florida Bar for five years.
- One public defender is elected to serve each judicial circuit for a term of four years.
- The public defender is empowered to appoint assistant public defenders.



Public Defenders

- The public defender represents any person determined to be indigent and:
 - Under arrest for, or charged with, a felony;
 - Under arrest for, or charged with:
 - A misdemeanor;
 - A violation of ch. 316 (Traffic Offenses) punishable by jail;
 - Criminal contempt; or
 - Specified county or municipal ordinance violations.*
 - Alleged to be a delinquent child in a petition filed in circuit court;
 - The subject of a petition for involuntary commitment under the Baker Act, involuntary commitment as a sexually violent predator, or involuntarily admitted for residential services as a person with developmental disabilities;
 - Convicted and sentenced to death for purposes of appeal to the Supreme Court; or
 - Is appealing a matter in a case arising from those listed above.

* If the court files an Order of No Imprisonment in any of these cases, the defendant is not entitled to public defender representation.

Public Defenders

Appellate Responsibilities



Specified public defender offices handle all circuit court appeals within the state courts system and any authorized appeals to the federal courts:

PD Appellate Office	PD Appeals from Within District
Second Judicial Circuit	First DCA
Tenth Judicial Circuit	Second DCA
Eleventh Judicial Circuit	Third DCA
Fifteenth Judicial Circuit	Fourth DCA
Seventh Judicial Circuit	Fifth DCA

The Attorney General represents the state in criminal appeals from circuit court in state and federal courts.



Office of Criminal Conflict and Civil Regional Counsel

- The office of criminal conflict and civil regional counsel is another kind of court-appointed counsel, that represents indigent persons in specified civil proceedings and cases when the public defender has a conflict of interest or is otherwise not authorized to provide representation.
- There is an office of criminal conflict and civil regional counsel within the geographic boundaries of each of the five district courts of appeal.
- To be eligible to serve as Regional Counsel, a person must be a member of The Florida Bar for five years. The Regional Counsel serves for a term of four years.
- The Regional Counsel is appointed by the Governor from a list of two to five qualified candidates provided by the Supreme Court JNC and the current Regional Counsel and confirmed by the Senate.



Office of Criminal Conflict and Civil Regional Counsel

Criminal proceedings, when:

- Under arrest for, or charged with, a felony;
- Under arrest for, or charged with:
 - A misdemeanor;
 - A violation of ch. 316 (Traffic Offenses) punishable by jail;
 - Criminal contempt; or
 - Specified county or municipal ordinance violations.
- Alleged to be a delinquent child in a petition filed in circuit court;
- The subject of a petition for involuntary commitment under the Baker Act, involuntary commitment as a sexually violent predator, or involuntarily admitted for residential services as a person with developmental disabilities;
- Convicted and sentenced to death for purposes of appeal to the Supreme Court;
- Is appealing a matter in a case arising from those listed above; or
- Seeking sentence correction, reduction, or modification or seeking postconviction relief, if, the court determines that appointed counsel is necessary to protect a person's due process rights.

Civil proceedings, including, but not limited to:

- Guardianship;
- Dependency;
- Termination of parental rights; and
- The Marchman Act.



Capital Collateral Regional Counsel

- The Capital Collateral Regional Councils provide representation to defendants under sentence of death who have exhausted their direct appeals and who seek to challenge the sentence on other grounds.
- When a defendant's direct appeal is completed, the Capital Collateral Counsel is notified to begin post-conviction collateral proceedings. In both state and federal courts, post-conviction motions may only be raised for a limited number of legal issues. Collateral challenges focus on the effectiveness of trial and appellate counsel, the discovery of new or undisclosed evidence, or other issues that had not been previously raised, but pertain to the defendant's guilt or the appropriateness of the death penalty.
- Florida law requires three Capital Collateral Regional Councils be located in the northern, middle, and southern regions of the state.

CCRC Region	Counties Covered
Northern	Alachua, Baker, Bay, Bradford, Calhoun, Clay, Columbia, Dixie, Duval, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, and Washington
Middle	Brevard, Citrus, DeSoto, Flagler, Hardee, Hernando, Highland, Hillsborough, Lake, Manatee, Marion, Orange, Osceola, Pasco, Pinellas, Polk, Putnam, St. Johns, Sarasota, Seminole, Sumter, and Volusia
Southern	Broward, Charlotte, Collier, Miami-Dade, Glades, Hendry, Indian River, Lee, Martin, Monroe, Okeechobee, Palm Beach, and St. Lucie

Questions?



Where To Go For Help



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(850) 717-4850

417 House Office Building

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